REGISTERED No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. V] Trivandrum, Saturday, 29th October 1960 / 7th Kartika 1882 [No. 107

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

LD (H) 3-9848/60/Law.

Dated, Trivandrum, 27th October 1960.

The following Act of the Kerala State Legislature is hereby published for general information. The Bill, as passed by the Assembly received the assent of the Governor on the 24th day of October 1960.

By order of the Governor,
P. NARAYANASWAMI,
Law Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1960.

4. *Amendment of section 2.*—Section 2 of the principal Act shall be renumbered as sub-section (1) of that section and,—

(i) in sub-section (1) so renumbered, after the words, figures and brackets "in sub-section (3) of section 1," the words, figures and brackets "but subject to the provisions of sub-section (2)" shall be inserted.

(ii) after sub-section (1) as so renumbered, the following shall be added as sub-section (2), namely:—

"(2) A draft of any notification proposed to be issued under sub-section (1) of this section or under section 4 or section 6 shall be laid on the table of the Legislative Assembly and the notification shall not be issued unless the Assembly approves the draft either with or without modification or addition; and upon such approval being given the notification may be issued in the form in which it has been approved, and such notification shall be published in the Gazette, and shall thereupon have effect as from the date as is specified in the notification."

5. *Amendment of section 5.*—In section 5 of the principal Act for the words and figures "The Travancore Abkari Act, IV of 1073 or the Cochin Abkari Act, 1 of 1077 as amended, as the case may be," the words "the Abkari Act for the time being in force" shall be substituted.

6. *Amendment of section 7.*—In section 7 of the principal Act—

(1) in clause (5), for sub-clause (b), the following sub-clause shall be substituted, namely:—

"(b) to take out of the State otherwise than across a customs frontier as defined by the Central Government";

(2) in clause (6), for sub-clause (b), the following sub-clause shall be substituted, namely:—

"(b) to bring into the State otherwise than across a customs frontier as defined by the Central Government";

(3) in clause (7), in sub-clause (iv), the following shall be added at the end, namely:—

"as defined in section 2 of the Dangerous Drugs Act, 1930 (Central Act 2 of 1930)"

(4) for clause (9), the following clause shall be substituted namely:—

"(9) 'Local authority' means the Corporation of Trivandrum, any other municipal corporation which may hereafter be constituted, any municipality constituted under the Travancore District Municipalities Act, 1116, or the Cochin Municipal Act, XVIII of 1113, or the Madras District Municipalities Act, 1920, the Malabar District Board constituted under the Madras District Boards Act, 1920, any village panchayat constituted under the Travancore Village Panchayat Act, 1100, or the Cochin Village Panchayat Act, 1089 or the Madras Village Panchayats Act, 1950, or any village union constituted under the Travancore Village Unions Act, 1115;";

(5) clause (11) shall be omitted;

(6) for clause (19), the following clause shall be substituted, namely:—

"(19) 'State' means the State of Kerala;".

7. *Amendment of Section 8.*—In section 8 of the principal Act in sub-section (1), after the words "shall be punished" occurring after clause (k), for the clauses (i), (ii) and the proviso after it, the following shall be substituted, namely:—

"(i) in the case of an offence falling under clause (f) or an offence falling under clause (k) in so far as it relates to an act specified in the clause aforesaid, with imprisonment for a term which may extend to two years and with fine which may extend to five thousand rupees, but in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court—

(A) such imprisonment shall not be less than six months and such fine shall not be less than one thousand rupees for a first offence;

(B) such imprisonment shall be rigorous and shall not be less than one year and such fine shall not be less than two thousand rupees for a second and subsequent offences;

(ii) in the case of an offence falling under clause (b), clause (h) or clause (i) or an offence falling under clause (k) in so far as it relates to an act specified in any of the clauses aforesaid, with imprisonment for a term which may extend to two years and with fine which may extend to five thousand rupees, but in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court—

(A) such imprisonment shall not be less than three months and such fine shall not be less than five hundred rupees for a first offence;

(B) such imprisonment shall be rigorous and shall not be less than one year and such fine shall not be less than two thousand rupees for a second and subsequent offences;

(iii) in any other case, with imprisonment for a term which may extend to one year or with fine which may extend to two thousand rupees or with both, but in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court—

(A) such imprisonment shall not be less than three months and such fine shall not be less than five hundred rupees for a first offence;

(B) such imprisonment shall be rigorous and shall not be less than six months and such fine shall not be less than one thousand rupees for a second and subsequent offences:

Provided that nothing contained in this sub-section shall apply—

(i) to any act done under, and in accordance with, the provisions of this Act or the terms of any rule, notification, order, licence or permit issued thereunder, or

(ii) to the possession, sale, purchase, use or consumption of duty-paid medicinal or toilet preparations for bona fide medicinal or toilet purposes."

8. *Substitution of new section for section 10.*— For section 10 of the principal Act, the following section shall be substituted, namely:—

"10. *Punishment for rendering or attempting to render denatured spirits fit for human consumption.*—Whoever renders or attempts to render fit for human consumption any spirit or preparation containing spirit, whether manufactured in the State or not, which has been denatured or any preparation containing such spirit or has in his possession, any spirit or preparation containing spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to five thousand rupees, but in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court—

(i) such imprisonment shall not be less than six months and such fine shall not be less than seven hundred and fifty rupees for a first offence;

(ii) such imprisonment shall not be less than nine months and such fine shall not be less than one thousand rupees for a second offence; and

(iii) such imprisonment shall not be less than one year and such fine shall not be less than one thousand five hundred rupees for a third and subsequent offences.

For the purpose of this section it shall be presumed until the contrary is proved, that any spirit or preparation containing spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit."

9. *Amendment of section 11.*—In section 11 of the principal Act,—

(i) for the words "with fine which may extend to one thousand rupees", the following shall be substituted, namely:—

"with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.";

(ii) clause (d) of the proviso shall be omitted.

10. *Amendment of section 16.*—In section 16 of the principal Act, for the words "with fine which may extend to two hundred rupees", the following shall be substituted, namely:—

"with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both."

11. *Insertion of new section 20A.*—After section 20 of the principal Act, the following section shall be inserted in Chapter II namely:—

"*20A. Enhanced Jurisdiction of Magistrates and special Magistrates.*—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), it shall be lawful for the Magistrates specified in column (1) of the Table below to exercise the power specified in the corresponding entry in column (2) thereof, in respect of offences punishable under this Act.

TABLE

(1)	(2)
Magistrates of the first class or Special Magistrates appointed under section 14 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), upon whom the powers conferred by section 32 of the said Code on a Magistrate of the first class have been conferred.	Fine exceeding two thousand rupees but not exceeding five thousand rupees.
Magistrates of the second class or Special Magistrates appointed under section 14 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) upon whom the powers conferred by section 32 of the said Code on a Magistrate of the second class have been conferred.	Imprisonment for a term not exceeding one year; fine not exceeding one thousand rupees.

12. *Amendment of section 24.*—In section 24 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Government may, by notification and subject to such conditions as they think fit, exempt members of the armed forces of the Union or of any other armed forces raised or maintained by the Union or attached to or operating with any of its armed forces and the members of the medical or other staff attached to any of the forces aforesaid or any foreign tourist from all or any of the provisions of this Act."

Explanation.—For the purposes of this sub-section 'foreign tourist' means any person who is not a citizen of India and who stays in India for more than twenty-four hours and less than six months for any non-immigrant purpose."

13. *Amendment of section 28.*—In section 28 of the principal Act, for clause (d), the following clause shall be substituted, namely:—

"(d) licences to any person to possess liquor and issue it to persons or institutions who hold permits or licences under this Act or who have been exempted under this Act from so much of the provisions of clause (a) or (j) of sub-section (1) of section 8 as relates to the possession, consumption or buying of liquor."

14. *Amendment of section 31.*—In section 31 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) The Government may cancel or suspend any such licence or permit on any of the aforesaid grounds or on other grounds which may be prescribed.

(3) Before any licence or permit is cancelled or suspended under sub-section (1) or sub-section (2), the holder of the licence or permit shall be given an opportunity to state his objections within a reasonable time not ordinarily exceeding fourteen days and any representation made by him in this behalf shall be duly taken into consideration before final orders are passed."

15. *Amendment of section 33.*—In section 33 of the principal Act for clause (b), the following clause shall be substituted, namely:—

"(b) appoint any person other than the District Collector to exercise within a district all or any of the powers and to perform all or any of the duties of a Collector under this Act, either concurrently with or to the exclusion of the District Collector, subject to such control as the Government may, from time to time, direct;".

16. *Amendment of section 34.*—In section 34 of the principal Act—

(i) in sub-section (1), for the words "in every Taluk thereof to assist him in carrying out the objects of this Act in the District or area", the words "in such District or area to assist him in carrying out the objects of this Act" shall be substituted;

(ii) in sub-section (2), for the word "taluk", the words "District or area" shall be substituted;

(iii) in sub-section (3), for the word 'taluk' in both places where it occurs, the words "District or area" shall be substituted.

17. *Amendment of section 37.*—In section 37 of the principal Act, for the words "or any other paid or honorary officer authorised by Government" the words "or any officer authorised by Government" shall be substituted.

18. *Substitution of new section for section 38.*—For section 38 of the principal Act, the following section shall be substituted, namely:—

"38. *Powers of entry and inspection.*—The Collector, any prohibition officer not below such rank as the Government may determine, or any police or any officer authorised by the Government in this behalf, may enter and inspect, at any time by day or by night, any place in which it is reasonably suspected—

(a) that any toddy is drawn or the manufacture of any other liquor or of any intoxicating drug is carried on, or

(b) that any liquor or intoxicating drug is kept for sale or stored, or

(c) that an offence under section 10 has been, or is being, committed;

and may examine, test, measure or weigh any material, still, vessel, implement, apparatus, liquor or intoxicating drug found in such place."

19. *Amendment of section 40.*—In section 40 of the principal Act, in clause (a), the words and figures "or section 10" shall be added at the end—

20. *Insertion of new section 49A.*—After section 49 of the principal Act, the following section shall be inserted, namely:—

"49 A. *Obtaining of medical certificates in the case of persons found in a state of intoxication.*—(1) Any officer authorised to arrest a person for an offence punishable under clause (j) of sub-section (1) of section 8 in so far as it relates to consumption of liquor or any intoxicating drug, who has reason to believe that any person has consumed liquor or any intoxicating drug, may produce such person for examination, before any medical officer authorised by the Government and request the medical officer to furnish a certificate on his finding whether such person has consumed any liquor or intoxicating drug.

(2) Any such medical officer before whom such person is produced shall be bound to examine such person and furnish to the officer by whom such person has been produced a certificate as to the state of such person, and if any form has been prescribed for the purpose, in such form.

(3) If the person produced is a woman, the examination shall be carried out by a woman medical officer authorised by the Government.

(4) Any person who has been produced before a medical officer in pursuance of this section shall allow himself to be examined by the medical officer.

(5) If any person who under this section is required to undergo medical examination resists or refuses to allow himself to be produced before or to be examined by the medical officer, it shall be lawful to use all means necessary to secure the production and examination of such person.

(6) Resistance to production or refusal to allow examination under this section shall be deemed to be an offence under section 186 of the Indian Penal Code (Central Act 45 of 1860).

(7) In trials under this Act, it may be presumed, unless and until the contrary is proved, that the accused has committed an offence under clause (j) of sub-section (1) of section 8 if he having been produced before a medical officer under this section had resisted or had refused to allow himself to be examined by such medical officer.

(8) Any document purporting to be a certificate signed by a medical officer authorised by the Government may be used as evidence of the facts stated therein in any proceeding under this Act or under sections 272 to 276 of the Indian Penal Code (Central Act 45 of 1860), but the court may at the instance of the accused order the attendance for cross-examination of the medical officer who issued the certificate."

21. *Substitution of new section for section 58.*—For section 58 of the principal Act, the following section shall be substituted, namely :—

"58. *Procedure after arrest.*—Any person arrested for an offence under this Act shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate; and no such person shall be detained in custody beyond the said period without the authority of the Magistrate."

22. *Amendment of section 61.*—In section 61 of the principal Act, for the words "Nothing contained in this Act", the words "Save as expressly provided in this Act, nothing contained therein" shall be substituted.

23. *Insertion of new section 61A.*—After section 61 of the principal Act, the following section shall be inserted in Chapter V, namely :—

"61 A. *Payment of portion of fine to Police and Prohibition Officers.*—(1) The Magistrate trying any case under this Act may direct any portion not exceeding one-half of the fine which may be levied under section 8, or section 10 or section 12 or section 17 to be paid to the Police and Prohibition Officers who may have assisted in the detection of the offence. A direction under this section may also be made by any court of appeal, reference or revision.

(2) Where a direction is made under sub-section (1), the Magistrate concerned shall send the amount to be paid under that sub-section to the District Collector, who shall distribute it among such of the officers aforesaid as may be chosen by him and in such proportion, as he thinks fit.

(3) The amount aforesaid shall not be sent to the District Collector until the expiry of three months from the date of the direction under sub-section (1), or if an appeal is presented within that period, until the appeal has been disposed of.

24. *Amendment of section 62.*—In section 62 of the principal Act—

(i) after clause (b) of sub-section (2), the following clauses shall be inserted, namely :—

"(bb) prescribing the ways in which the duty under section 26 may be levied."

(ii) after clause (l) of sub-section (2), the following clause shall be added, namely :—

"(m) for the prevention of the use of medicinal or toilet preparations for any purpose other than medicinal or toilet;"

"(n) for all matters expressly required or allowed by this Act to be prescribed."

(iii) after sub-section (2), the following sub-section shall be added, namely :—

"(3) All rules made under this section shall be laid before the Legislative Assembly for not less than fourteen days, as soon as possible after they are made and shall be subject to such modifications as the Assembly may make during the session in which they are so laid or the session immediately following."

25. *Amendment of First Schedule.*—In the First Schedule to the principal Act, the following entry shall be added at the end, namely :—

" 1886 1 The Madras Abkari Act do."

26. *Amendment of second Schedule.*—In the second Schedule to the principal Act, the following entry shall be added at the end, namely :—

"1937 x The Madras Prohibition Act do."

REGISTERED No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. V] Trivandrum, Saturday, 29th October 1960 / 7th Kartika 1882 [No. 103.

Public Works (Buildings) Department

NOTIFICATION

No. B4-68889|60|PW-B4.

Dated, Trivandrum, 29th October 1960.

In exercise of the powers conferred by section 13 of the Travancore Town and Country Planning Act, 1120 (Act XXI of 1120) the Government of Kerala hereby make the following amendment to the Medical College Area General (Interim Development) Order 1958 published in the Gazette dated 9-12-1958 namely:—

AMENDMENT

For Clause 20 of the said order the following shall be substituted:—

"20. This order shall cease to be in force in the event of the failure to publish a scheme before 30th April 1961".

By order of the Governor,
K. K. RAMANKUTTY,
Secretary.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1960.

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KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. V] Trivandrum, Saturday, 29th October 1960 / 7th Kartika 1882 [No. 109.

NOTIFICATION

No. 4086|LA.7|60.

The following Bill together with the Statement of Objects and Reasons is published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

D. TIRUMALAI IYENGAR,
Secretary,
Legislative Assembly.

Legislature Secretariat,
Trivandrum, 29-10-1960.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1960.

THE KERALA BEEDI AND CIGAR INDUSTRIAL PREMISES (REGULATION OF CONDITIONS OF WORK) BILL, 1960

A

BILL

to regulate the conditions of work in beedi and cigar industrial premises in the State of Kerala.

Preamble.—WHEREAS it is necessary to regulate the conditions of work in beedi and cigar industrial premises in the State of Kerala;

BE it enacted in the Eleventh Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Beedi and Cigar Industrial Premises (Regulation of Conditions of Work) Act, 1960.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "adult" means a person who has completed his eighteenth year of age;

(b) "beedi and cigar industrial premises" means any place or premises, including the precincts thereof, in any part of which any manufacturing process connected with the production of beedies or cigars or both is being carried on with or without the aid of power;

(c) "beedi and cigar industry" means any industry relating to the manufacture of beedies or cigars or both;

(d) "child" means a person who has not completed his fifteenth year of age;

(e) "closed" means not open for carrying out any of the processes connected with the manufacture of beedi or cigar;

(f) "competent authority" means any officer authorised by the Government, by notification, to perform the functions of the competent authority under this Act for such area as may be specified in the notification;

(g) "day" means the period of twenty-four hours beginning at mid-night;

(h) "employee" means a person employed, directly or through any agency, whether for wages or not, in any beedi and cigar industry, to do any work, skilled,

unskilled, manual or clerical, and includes any person who is employed in such industry and declared by the Government by notification to be an employee for the purposes of this Act;

(i) "employer" means the person who has the ultimate control over the affairs of any beedi and cigar industrial premises or who has, by reason of his advancing money, supplying goods or otherwise, a substantial interest in the control of the affairs of any beedi and cigar industrial premises and includes—

(i) a proprietor or a registered user of a trade mark registered under the Trade and Mercandise Marks Act, 1958 (Central Act 43 of 1958), in relation to beedi or cigar; and

(ii) any other person to whom the affairs of any beedi and cigar industrial premises are entrusted (whether such other person is called a managing agent, manager, superintendent, or by any other name);

(j) "Inspector" means the Inspector appointed under subsection (1) of section 30;

(k) "manufacturing process" means any process for, or incidental to, making, finishing or packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal as beedies or cigars or both;

(l) "notification" means a notification published in the Gazette;

(m) "opened" means opened for carrying out any of the processes connected with the manufacture of beedi or cigar;

(n) "period of work" means the time during which an employee is at the disposal of the employer;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "wages" means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—

(i) any remuneration payable under any award or settlement between the parties or order of a court;

(ii) any remuneration to which the person employed is entitled in respect of over time work or holidays or any leave period;

(iii) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

(iv) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;

(v) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;

but does not include—

(1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a court;

(2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the Government;

(3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;

(4) any travelling allowance or the value of any travelling concession;

(5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or

(6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (iv);

(q) "week" means a period of seven days beginning at midnight of Saturday;

(r) "young person" means a person who has completed his fifteenth year but has not completed his eighteenth year of age.

3. *Beedi and cigar industrial premises to be licensed.*—Save as otherwise provided in this Act, no place or premises shall, on and after such date as the Government may, by notification, specify in this behalf, be used as a beedi and cigar indusrtial premises without a licence obtained from the competent authority and except in accordance with the terms and conditions specified therein.

4. *Licences.*—(1) Any person who intends to use any beedi and cigar industrial premises shall make an application in writing to the competent authority for a licence therefor, together with such particulars as may be prescribed.

(2) The application shall specify the maximum number of employees proposed to be simultaneously employed at any time in the place or premises and shall be accompanied by a plan of the place or premises prepared in such manner as may be prescribed.

(3) The competent authority shall, in deciding whether to grant or refuse a licence, have regard to the following matters, namely:—

(a) the suitability of the place or premises which is proposed to be used for the manufacture of beedies or cigars;

(b) the status and previous experience of the applicant;

(c) the financial resources of the applicant including the financial capacity to meet the demands arising out of the provisions of the laws for the time being in force relating to welfare of labour;

(d) whether the application is made *bona fide* on behalf of the applicant himself or *benami* on behalf of any other person;

(e) whether the beedi or cigar manufactured by the applicant will be sold and marketed by himself or through a proprietor or a registered user of a trade mark registered under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958), in relation to beedi or cigar or any other person;

(f) the welfare of labour in the locality;

(g) the interest of the public generally; and

(h) such other matters as may be prescribed.

(4) The competent authority shall not grant a licence unless it is satisfied that the provisions of this Act and the rules made thereunder have been substantially complied with.

(5) (a) A licence granted under this section shall be valid for a financial year and shall be renewed from financial year to financial year.

(b) The competent authority shall, in deciding whether to renew a licence or to refuse a renewal thereof, have regard to the matters specified in sub-section (3).

(6) The competent authority may cancel or suspend any licence granted or renewed under this Act if it appears to it, after giving the holder thereof an opportunity of being heard, that such licence has been obtained by misrepresentation or fraud or that the licensee has been guilty of an offence under this Act or under any other Act or of any breach of any rule

made under this Act or of the terms and conditions of the licence.

(7) The Government may issue to competent authorities such orders and directions of a general character as the Government may consider necessary in respect of any matter relating to licences under this section.

(8) Subject to the foregoing provisions of this section, the competent authority may grant or renew licences under this Act on such terms and conditions as it may determine. Where the competent authority refuses to grant or renew any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

5. *Appeals.*—Any person aggrieved by the decision of the competent authority refusing to grant or renew a licence or cancelling a licence under section 4 may, within such time as may be prescribed, appeal to such authority as the Government may specify in this behalf and such authority may make such order in the case as it may think fit.

6. *Opening and closing of beedi and cigar industrial premises.*—No beedi and cigar industrial premises shall on any day be opened earlier than 7 a.m. or closed later than 7 p.m.

7. *Daily and weekly hours of work in beedi and cigar industrial premises.*—(1) No employee shall be required or allowed to work in any beedi and cigar industrial premises for more than nine hours in any day, or more than 48 hours in any week:

Provided that an adult employee may be allowed to work in a beedi and cigar industrial premises for any period in excess of the limit fixed under this sub-section subject to payment of overtime wages if the period of work including overtime work does not exceed ten hours in any day and in the aggregate 54 hours in any week.

(2) No employee in any beedi and cigar industrial premises shall be required or allowed to work therein for more than five hours in any day unless he has had an interval for rest of at least one hour.

8. *Spread over of periods of work.*—The periods of work of an employee in any beedi and cigar industrial premises shall be so arranged that along with intervals for rest, they shall not spread over more than ten and a half hours in any day.

9. *Wages for over-time work.*—Where any employee employed in any beedi and cigar industrial premises works overtime on any day, he shall be entitled, in respect of such overtime work, to wages at twice the ordinary rate of wages for that day.

Explanation.—Where an employee employed on a piece rate basis works overtime on any day, he shall be entitled, in respect of such overtime work, to wages at twice the ordinary rate of wages for that day.

10. *Weekly holidays.*—(1) Every employee in a beedi and cigar industrial premises shall be allowed in each week a holiday of one whole day.

(2) No deduction shall be made from the wages of any employee in a beedi and cigar industrial premises on account of any day on which a holiday has been allowed in accordance with this section; and if such person is employed on the basis that he would not ordinarily receive wages for such day, he shall nonetheless be paid for such day the wages he would have drawn had the holiday not been allowed on that day.

11. *Notice of periods of work.*—There shall be displayed and correctly maintained in every beedi and cigar industrial premises a notice of periods of work in such form and in such manner as may be prescribed showing clearly for every day the periods during which employees may be required to work.

12. *Wage period.*—No wage period shall exceed one month.

13. *Annual leave with wages.*—(1) Every employee in a beedi and cigar industrial premises shall be allowed in a calendar year leave with wages for a number of days calculated at the rate of one day for every twenty days of work performed by him during the previous calendar year.

Explanation.—The leave admissible under this sub-section shall be exclusive of all holidays whether occurrying during or at the beginning or at the end of the period of leave.

(2) In calculating leave under this section any fraction of leave of half a day or more shall be treated as one full day's leave and any fraction of less than half a day shall be omitted.

(3) An application by an employee for the whole or any portion of the leave allowed under sub-section (1) or sub-section (2) shall be in writing and ordinarily be made sufficiently in advance of the date on which he wishes his leave to begin.

(4) If the employment of an employee who is entitled to leave under sub-section (1), is terminated by the employer before he has taken the entire leave to which he is entitled or if having applied for leave he has not been granted such leave or if the employee quits his employment before he has taken the leave, the employer shall pay him the amount payable under section 14 in respect of leave not taken, and such payment shall be made, where the employment of the employee is terminated by the employer, before the expiry of the second working day after such termination and where the employee quits his employment, on or before the next pay day.

(5) The leave not availed of by an employee shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

14. *Wages during leave period.*—(1) For the leave allowed to him under sub-section (1) of section 13 an employee shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he worked during the month immediately preceding his leave, exclusive of any over-time and bonus, but inclusive of dearness allowance.

(2) An employee who has been allowed leave for not less than four days shall, before his leave begins, be paid wages due for the period of the leave allowed.

15. *Notice of dismissal.*—(1) No employer shall dispense with the services of an employee employed continuously for a period of not less than six months, except for a reasonable cause and without giving such employee at least one month's notice or wages in lieu of such notice, provided however that such notice shall not be necessary where the services of such employee are dispensed with on a charge of misconduct supported by satisfactory evidence recorded at an inquiry held for the purpose.

(2) Any employee whose services are dispensed with may appeal to such authority and within such time as may be prescribed either on the ground that there was no reasonable cause for dispensing with his services or on the ground that he had not been guilty of misconduct as held by the employer.

(3) The appellate authority may, after giving notice in the prescribed manner to the employer and the employee, dismiss the appeal or direct the reinstatement of the employee with or without wages for the period he was kept out of employment or direct payment of compensation without reinstatement or grant such other relief as it deems fit in the circumstances of the case.

(4) In directing the reinstatement of an employee, the appellate authority shall also direct the payment of such amount of compensation as may be specified by him in case the employer fails to reinstate the employee in accordance with the directions.

(5) The decision of the appellate authority shall be final and finding on both the parties, not be liable to be questioned in any Court of Law and be given effect to within such time as may be specified in the order of the appellate authority.

(6) Any compensation required to be paid by the employer under sub-sections (3) and (4) but not paid by him shall be recoverable as arrears of land revenue under the provisions of the Revenue Recovery Act for the time being in force.

16. *Prohibition of employment of children and women.*—(1) No child shall be required or allowed to work in any beedi and cigar industrial premises.

(2) No woman or young person shall be required or allowed to work in any beedi and cigar industrial premises except between 8 a.m. and 5 p.m.

17. *Wetting or cutting of wrapping-leaves by female employees.*—(1) The Government or any officer authorised by them in this behalf may permit the wetting or cutting of wrapping-leaves by female employees outside the beedi and cigar industrial premises on an application made by the employer on behalf of such employees.

(2) The employer shall maintain in the prescribed form a record of the work permitted under sub-section (1) to be carried on outside the beedi and cigar industrial premises.

(3) Save as otherwise provided in this section, no employer shall require or allow any manufacturing process connected with the production of beedies or cigars to be carried on outside the beedi and cigar industrial premises.

18. *Canteen.*—The Government may make rules requiring that in every beedi and cigar industrial premises wherein one hundred and fifty or more employees are employed, one or more canteens shall be provided and maintained by the employer for the use of the employees.

19. *Latrines and urinals.*—(1) In every beedi and cigar industrial premises sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to employees at all times while they are in the beedi and cigar industrial premises:

Provided that it shall not be necessary to provide for separate urinals in the beedi and cigar industrial premises where less than fifty persons are employed or where the latrines are connected to any waterborne sewage system.

(2) The Government may prescribe the number of latrines and urinals to be provided in any beedi and cigar industrial premises in proportion to the number of male and female employees ordinarily employed therein and provide for such further matters in respect of sanitation in the beedi and cigar industrial premises including the obligation of employees in this regard, as they consider necessary in the interests of the health of the employees employed therin.

20. *Washing facilities.*—In every beedi and cigar industrial premises where blending and sieving of tobacco or warming of beedies in hot ovens is carried on, the employer shall provide such washing facilities for the use of the employees as may be prescribed.

21. *First aid.*—(1) There shall, in every beedi and cigar industrial premises, be provided and maintained so as to be readily accessible during all working hours, first aid boxes or

cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty employees ordinarily employed at any one time in the beedi and cigar industrial premises.

(2) Nothing except the prescribed contents shall be kept in a first aid box or cupboard.

(3) Each first aid box or cupboard shall be kept in the charge of a person who shall always be readily available during the working hours of the beedi and cigar industrial premises.

22. *Cleanliness.*—The premises of every beedi and cigar industrial premises shall be kept clean and free from effluvia arising from any drain or privy or other nuisance, and shall be cleaned at such times and by such methods as may be prescribed.

23. *Ventilation.*—(1) The premises of every beedi and cigar industrial premises shall be ventilated and sufficiently lighted in accordance with such standards and by such methods as may be prescribed.

(2) If it appears to an Inspector that the premises of any beedi and cigar industrial premises within his jurisdiction is not sufficiently lighted or ventilated, he may serve on the employer an order in writing specifying the measures which, in his opinion, should be adopted and requiring them to be carried out before a specified date.

24. *Protection against fire.*—In every beedi and cigar industrial premises the employer shall take such precautions against fire as may be prescribed.

25. *Central Act 20 of 1946 to apply to beedi and cigar industrial premises.*—The provisions of the Industrial Employment (standing Orders), Act, 1946 (Central Act 20 of 1946), in force for the time being, shall apply to every beedi and cigar industrial premises wherein fifty or more employees are employed or were employed on any one day of the preceding twelve months as if such beedi and cigar industrial premises were an industrial establishment to which the aforesaid Act has been applied by a notification under sub-section (3) of section 1 thereof, and as if the employee in the said premises were a workman within the meaning of that Act.

26. *Application of the Payment of Wages Act, 1936, to beedi and cigar industrial premises.*—(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (Central Act 4 of 1936) (hereinafter in this section referred to as the said Act), the Government may, by notification, direct that, subject to the provisions of sub-section (2), the said Act or any of the provisions thereof or the rules made thereunder shall apply to all or any class of employees in beedi and cigar industrial premises to which this Act applies.

(2) On the application of the provisions of the said Act to any beedi and cigar industrial premises under sub-section (1), the Inspector appointed under this Act shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

(3) The Government may, by like notification, cancel or vary any notification issued under sub-section (1).

27. *Certain Acts not to apply to beedi and cigar industrial premises.*—On and from the date on which this Act comes into force, the Factories Act, 1948 (Central Act 63 of 1948) shall cease to apply to beedi and cigar industrial premises.

28. *Rights and privileges under other laws, etc., not affected.*—(1) Nothing contained in this Act shall affect any rights or privileges which any employee working in any beedi and cigar industrial premises is entitled to on the date on which this Act comes into force, under any other law, contract, custom or usage, applicable to such beedi and cigar industrial premises, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

(2) Nothing in this Act shall take away the rights or privileges which an employee working in any beedi and cigar industrial premises will be entitled to under the Madras Shops and Establishments Act, 1947, or the Travancore-Cochin Shops and Establishments Act, 1125, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

(3) If any question arises whether the rights or privileges aforesaid are more favourable to any employee than those to which he would be entitled under this Act, or whether all or any of the provisions of this Act apply to a beedi and cigar industrial premises or to a person employed therein, it shall be decided by such officer as may be prescribed, and his decision thereon shall be final and shall not be liable to be questioned in any Court of Law.

29. *Power to exempt.*—The Government may, by nitification, exempt, subject to such conditions and restrictions as they may impose,—

(a) any beedi and cigar industrial premises; or

(b) any beedi and cigar industry; or

(c) any class of employees;

from all or any of the provisions of this Act or of any rules made thereunder.

30. *Appointment, powers and duties of Inspectors.*—(1) The Government may, by notification, appoint such officers of Government or of any local authority as they think fit to be

Inspectors for the purposes of this Act, within such local limits as the Government may assign to them.

(2) The Government may, by notification, appoint any person to be a Chief Inspector who shall, under this Act, exercise the powers of an Inspector throughout the State.

(3) Every Inspector appointed under sub-section (1) and the Chief Inspector appointed under sub-section (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

31. *Powers of Inspectors.*—(1) Subject to any rules made in this behalf, an Inspector appointed under this Act, shall, for the purposes of enforcement of this Act, have power to do all or any of the following things within the local limits for which he is appointed—

(a) to make such examination and hold such enquiry as may be necessary for ascertaining whether the provisions of this Act have been and are being complied with in any beedi and cigar industrial premises;

(b) to require the production of any prescribed register and any other document relating to the manufacture of beedies or cigars;

(c) to enter at all reasonable times any place or premises including the residences of employees when he has reasonable grounds for suspecting that any beedi and cigar industry is being carried on or is ordinarily carried on in any such place or premises;

(d) to exercise such other powers as may be prescribed for carrying out the purposes of this Act:

Provided that no person shall be compelled under this section to answer any question or give any evidence tending to incriminate himself.

(2) For the purposes of clause (c) of sub-section (1), an Inspector may, after giving due notice to the employer, or, in the absence of the employer, to the occupier, enter any beedi and cigar industrial premises with such assistants, if any, as he thinks fit.

(3) Every employer shall accord to the Inspector all reasonable facilities in the discharge of his duties under this Act.

32. *Penalty for obstructing Inspector.*—Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him by or under this Act, or fails to produce on demand by an Inspector, any registers or other documents in his custody kept in pursuance of this Act or of any rules made thereunder or conceals or prevents any employee in a beedi and cigar industrial premises from appearing before, or being examined by, an Inspector, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

33. *General penalty for offences.*—(1) Save as otherwise expressly provided in this Act, if in, or in respect of, any beedi and cigar industrial premises, there is any contravention of any of the provisions of this Act or any rule made thereunder by the employer of any beedi and cigar industrial premises, such employer shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(2) If any person who has been convicted of any offence punishable under sub-section (1) is again found guilty of an offence involving the contravention of the same provision, he shall be punishable, on the subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both:

Provided that, for the purpose of this sub-section, no cognizance shall be taken of any conviction made more than two years before the commission of the subsequent offence.

34. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

35. *Cognizance of offences.*—(1) No court shall take cognizance of any offence punishable under this Act or any rule or order made thereunder unless the complaint is made—

(a) by the employee of a beedi and cigar industrial premises either by himself or through the union of which he is a member within three months from the date on which the offence is alleged to have been committed; or

(b) by the Inspector within six months from the date on which the alleged offence comes to his knowledge.

(2) No court inferior to that of a Magistrate of the Second Class shall try any offence punishable under this Act or any rules or orders made thereunder.

36. *Power to make rules.*—(1) The Government may, by notification, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the terms and conditions subject to which a licence may be granted under this Act and the fees to be paid in respect of such licence;

(b) the form of application for a licence under this Act and the documents and plans to be submitted together with such application;

(c) submission of a monthly return by an employer to the competent authority specifying the quantity of beedi tobacco and tobacco released by the Central Excise Department and the number of beedies or cigars manufactured by him;

(d) the records and registers that shall be maintained in beedi and cigar industrial premises for the purpose of securing compliance with the provisions of this Act and the rules made thereunder;

(e) any other matter expressly required or allowed by this Act to be prescribed.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than seven days before the Legislative Assembly, as soon as possible after they are made, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

STATEMENT OF OBJECTS AND REASONS

It has come to the notice of Government that the employees in the beedi and cigar industry are deprived of the protection and amenities contemplated by the various labour legislations. An examination of this question reveals that the position of the beedi and cigar industry in this State is peculiar and that it has been found impracticable to enforce the labour laws designed to improve the conditions of labour. Further, it is found that there has been a tendency on the part of the employers in this industry to resort to devises to circumvent the operation of the Factories Act, 1948 (Central Act 63 of 1948), by splitting the places of manufacture indiscriminately and also through contract system. With a view to eradicate these evils the Government consider it necessary to prohibit the manufacture of beedi and cigar except in places licenced for the purpose.

The Bill seeks to prevent decentralisation of the beedi and cigar industry by insisting on licences being taken out for the places where manufacture of beedi or cigar is carried on.

It is also proposed to regulate the conditions of labour employed in the manufacture of beedi and cigar with a view to prohibit the employment of young children in such places. The provisions of the Factories Act, 1948 (Central Act 63 of 1948) relating to health, welfare, working hours, employment of young persons, leave with wages, etc., have been adopted in this Bill with suitable modifications.

K. T. ATCHUTHAN